

## MEMORANDUM

Substitute  
Agenda Item No. 5(A)

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**TO:** Honorable Chairman Joe A. Martinez  
and Members, Board of County Commissioners

**DATE:** November 15, 2011

**FROM:** R. A. Cuevas, Jr.  
County Attorney

**SUBJECT:** Ordinance related to Zoning  
and pertaining to Traditional  
Neighborhood Development  
District (TND) amending  
Sections 33-284.47, 33-284.51  
and 33-284.53 of the Code

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The substitute differs from the original in that it: (1) revises the definition of setback to accommodate buildings on curved frontage lines, (2) clarifies that buildings on rowhouse use lots that do not cover more than 50% of the net lot do not have to count outbuildings toward lot coverage, (3) clarifies that buildings on house use lots are allowed greater lot coverage based on a percentage tier, (4) clarifies that outbuildings on house use lots do not count toward lot coverage unless the lot coverage exceeds 50%, and (5) corrects a typographical error.

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Chairman Joe A. Martinez.

  
\_\_\_\_\_  
R. A. Cuevas, Jr.  
County Attorney

RAC/jls

# Memorandum



**Date:** November 15, 2011

**To:** Honorable Chairman Joe A. Martinez  
and Members, Board of County Commissioners

**From:** Carlos A. Gimenez  
Mayor

**Subject:** Ordinance related to Zoning and pertaining to Traditional Neighborhood Development District (TND)

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The proposed ordinance pertaining to design criteria, land use categories, and ownership and maintenance of common open spaces and civic buildings will not have a fiscal impact to the County.

  
Office of the Mayor

Fis1212



# MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez  
and Members, Board of County Commissioners

DATE: November 15, 2011

FROM:   
R. A. Cuevas, Jr.  
County Attorney

SUBJECT: Substitute  
Agenda Item No. 5(A)

Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Ordinance creating a new board requires detailed County Manager's report for public hearing
- ☐ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's \_\_\_\_, 3/5's \_\_\_\_, unanimous \_\_\_\_ ) to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Substitute  
Agenda Item No. 5(A)  
11-16-11

ORDINANCE NO. \_\_\_\_\_

ORDINANCE RELATED TO ZONING AND PERTAINING TO  
TRADITIONAL NEIGHBORHOOD DEVELOPMENT  
DISTRICT (TND); AMENDING SECTIONS 33-284.47, 33-  
284.51 AND 33-284.53 OF THE CODE OF MIAMI-DADE  
COUNTY, FLORIDA PERTAINING TO DESIGN CRITERIA,  
LAND USE CATEGORIES, OWNERSHIP AND  
MAINTENANCE OF COMMON OPEN SPACE(S) AND CIVIC  
USE BUILDINGS, RESPECTIVELY; PROVIDING  
SEVERABILITY, INCLUSION IN THE CODE, AND AN  
EFFECTIVE DATE

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-  
DADE COUNTY, FLORIDA:

**Section 1.** Section 33-284.47 of the Code of Miami-Dade County is hereby amended  
as follows:<sup>1</sup>

**Sec. 33-284.47. Design criteria.**

\* \* \*

>>(14a) Habitable space: building space whose use involves  
human presence and entertainment, excluding balconies  
and terraces.<<

\* \* \*

(21) Meeting hall: A building>>(s) or an area or room within a  
building located on a civic use lot,<< designed for public  
assembly [[, containing at least one (1) room having an  
area]] >>and<< equivalent >>in size<< to four (4) square

<sup>1</sup> Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

feet per dwelling unit or twenty-four hundred (2,400) gross square feet, whichever is greater. The total number of dwelling units shall be established at the time of the TND approval.

\* \* \*

>>(26a) Porte-cochere: A house use category feature consisting of a roofed structure attached to a building and erected over a driveway. It shall be open on three (3) sides and may have a part of the main or principal building over it.<<

\* \* \*

(30) *Setback:* An absolute distance between the building lot line and the outside of the facade closest to said building lot line of the enclosed portion of the building. Front porches and ramps for people with disabilities are exempt from setback requirements. >>On curvilinear lots only, the required front setback shall be measured at the closest point to the lot line and may exceed the required front setback along the curvilinear property line.<<<sup>2</sup>

\* \* \*

**Section 2.** Section 33-284.51 of the Code of Miami-Dade County is hereby amended as follows:

**Sec. 33-284.51. Land Use Categories.**

\* \* \*

(B) *Civic use.*

\* \* \*

(2) *Land allocation.*

\* \* \*

<sup>2</sup> The differences between the substitute and the original item are indicated as follows: words double stricken through and/or [[double bracketed]] shall be deleted, words double underlined and/or >>double arrowed<< constitute the amendment proposed.

- (c) The developer shall covenant to construct a >>minimum of one (1)<< meeting hall on a civic use lot~~[[, on or adjacent to the mandatory square]]~~ upon the sale >>or lease<< of fifty (50) percent of the lots and/or units of the neighborhood proper.
- (d) The developer shall designate a minimum of >>any<< one (1) >>of the following use lots or an area within a building placed on said use lots<< ~~[[civic use lot reserved]]~~ for a day care center>>: civic, shopfront or workshop.<< The developer shall covenant that a building for said use shall be constructed >>for a day care center or an area within a building constructed on said use lots be reserved for a day care center<< when building permits have been obtained for fifty (50) percent of the residential units. Day care centers shall be in accordance with the sections 33-122 through 33-132 of this Code. The developer shall have the option of selling, leasing or transferring title of the lot and building reserved for day care center.

\* \* \*

(C) *Shopfront use.*

\* \* \*

(1) *Land use.*

\* \* \*

>>11a. Day care center.<<

\* \* \*

>>29a. Police sub-stations.<<

\* \* \*

(2) *Land allocation..*

\* \* \*

- (d) A minimum of two (2) shopfront use lots ~~[[shall]]~~ >>may<< front on a mandatory square or be placed within two hundred (200) feet of a mandatory green.

\* \* \*

(D) *Rowhouse use.*

\* \* \*

(2) *Land allocation.*

\* \* \*

- (b) ~~[[A maximum of five (5) r]]~~ >>R<<owhouse use lots may be consolidated for the purpose of constructing ~~[[a single building containing]]~~ multifamily dwellings.

\* \* \*

(3) *Lots and buildings.*

\* \* \*

- (h) Buildings on rowhouse use lots shall cover no more than ~~[[fifty (50)]]~~ >>sixty (60)<< percent of the net lot area. >>Outbuildings shall not count towards the lot coverage when the principal buildings do not cover more than fifty (50%) percent of the net lot area. Front porches and covered stoops without habitable space above shall not count towards the lot coverage.<<~~[[Outbuildings shall not count towards lot coverage.]]~~

\* \* \*

- (i) Buildings on rowhouse use lots shall have a minimum first floor front elevation eighteen (18) inches above finished sidewalk grade >>except that an apartment building(s), as defined in Section 33-1(6.1) of the Code of Miami-Dade County, in rowhouse use lots shall not be subject to the elevation

requirement<<. Rear entrance(s) shall be accessible for people with disabilities by grading or ramping. Space shall be provided in the front yard area for the construction of a ramp.

\* \* \*

(E) *House use.*

\* \* \*

(2) *Land allocation.*

\* \* \*

- (a) House use lots shall constitute a maximum of ~~[[thirty]]~~>>fifty<< percent ~~[[30%]]~~>>(50%)<< of the gross area of the neighborhood proper.

~~[[b)] A maximum of two (2) house use lots may be consolidated for the purpose of constructing a single residence.~~

- ~~(e) A maximum of fifty (50) percent of all house use lots may be consolidated.]]~~

\* \* \*

(3) *Lots and buildings.*

\* \* \*

- (c) House use lots shall have a minimum width of thirty-six (36) feet and a ~~[[maximum width of seventy-five (75)]]~~ >>minimum lot size of three thousand six hundred (3,600) square<< feet with a minimum average lot size of five thousand (5000) square feet.

\* \* \*



- (g) Buildings on house use lots >>between 3,600 square feet and 4,999 square feet<<<sup>3</sup> shall cover no more than forty (40%) percent of the ~~[[building]]~~ lot area. >>Buildings on 5,000 square foot and greater house use lots shall cover no more than fifty (50%) percent of the lot area. Outbuildings shall not count towards the lot coverage when the principal buildings do not cover more than forty (40%) percent of the net lot area. Front porches, porte-cocheres and covered stoops without habitable space above shall not count towards the lot coverage.<< ~~[[Outbuildings and front porches do not count in lot coverage.]]~~

\* \* \*

(5) *Parking.*

\* \* \*

- (b) All off-street parking places shall be to the side or the rear of the building. Where no alley access exists and vehicular access is through the frontage, garage>>s<< ~~[[or earports]]~~ shall be located a minimum of twenty (20) feet behind the front building setback. >>Porte-cocheres may be located at the front building setback line. Porte-cocheres without habitable space above may encroach into the front setback a maximum of eight (8) feet.<<

\* \* \*

(F) *Workshop use.*

(1) *Land Use.*

\* \* \*

>>12a. Day care centers.<<

<sup>3</sup> In this subsection, the substitute removes the proposed changes in the original item and replaces it with words double underlined and >>double arrowed<<.

\* \* \*

(2) *Land allocation.*

- (a) Workshop use lots shall constitute a minimum of three percent (3%) and a maximum of seven percent (7%) of the gross area of the neighborhood proper. >>When a TND borders land designated in the CDMP as agriculture or open land, the land allocation for workshop use lots may constitute only one and one-half (1.5%) >>percent<< of the gross area of the neighborhood proper.<<

\* \* \*

**Section 3.** Section 33-284.53 of the Code of Miami-Dade County is hereby amended

as follows:

**Sec. 33-284.53. Ownership and maintenance of common open space(s) and civic use buildings.**

All land designated on approved plans as common open space, including squares, greens and parks, and all structures devoted to the common use of the inhabitants of a TND will be owned and/or maintained >>under one or more of the following<< structures:

- (A) Those projects developed under a condominium ownership shall be in accordance with applicable Florida law, or
- (B) The common open space and civic uses shall be maintained under a special taxing improvement district >>or community development district<< as approved by the Board of County Commissioners, or
- (C) The common open space and civic uses shall be owned ~~[[by a]]~~ >>and maintained as provided under the provisions of the<< property homeowners' association ~~[[in which case the ownership shall be subject to covenants providing]]~~ >>declaration, which shall, at a minimum, provide<< for the maintenance of >>all<< common facilities >>covered by the documents<< in a manner that assures ~~[[its continuing]]~~ >>their continued<< use for ~~[[its]]~~ >>their<< intended purpose>>s<< and provided >>further<< that

[[a]] >>the property<< homeowners' association  
>>declaration<< shall comply with the following  
requirements:

- (1) Approval for form and legal sufficiency as to compliance with the ordinance by the Miami-Dade County Attorney's Office.
- (2) A homeowners' association shall be established before the units or individual building lots are sold.
- (3) Membership shall be mandatory for each property owner and said association shall have the authority to adjust the assessment to meet the needs of maintaining the open space and common facilities.
- (4) Any sums levied by the homeowners' association that remain unpaid, shall become a lien on the individual property and said lien shall be superior to all other liens save and except tax liens and mortgage liens, provided said mortgage liens are first liens against the property encumbered thereby, subject only to tax liens and secure indebtedness which are amortized in monthly or quarter annual payments over a period of not less than ten (10) years.

\* \* \*


**Section 4.** If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

**Section 5.** It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

**Section 6.** This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as  
to form and legal sufficiency:

  
CHC For

Prepared by:

Dennis A. Kerbel

Prime Sponsor: Chairman Joe A. Martinez